

JOURNAL OF THE SENATE

NINETIETH SESSION

TWENTY-FIRST DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, February 12, 2015

The Senate convened at 1:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Dan Bader, followed by the Pledge of Allegiance led by Senate page Gerald Fraas.

Roll Call: All members present except Sens. Curd, Haverly, Soholt, and Van Gerpen who were excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twentieth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

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1 February 4, 2015

2 The Honorable Matt Michels
3 President of the Senate
4 State Capitol
5 Pierre, SD 57501

6 Dear Mr. President and Members of the Senate:

7 Pursuant to the provisions of Chapter 1-44 of the South Dakota Codified Laws and subject
8 to your consent, I have the honor to inform you that I have appointed Sheldon Cotton, Brookings
9 County, Volga, South Dakota, to the South Dakota State Railroad Board.

10 This appointment is effective July 1, 2014, and shall continue until October 30, 2015.

11 Sincerely,
12 Dennis Daugaard
13 Governor

14 The President announced the referral of the appointment to the Committee on
15 Transportation.

16 **REPORTS OF STANDING COMMITTEES**

17 MR. PRESIDENT:

18 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing
19 and Enrolling has carefully compared SB 22 and finds the same correctly enrolled.

20 Respectfully submitted,
21 Corey Brown, Chair

22 Also MR. PRESIDENT:

23 The Committee on Education respectfully reports that it has had under consideration SB 90
24 and 124, which was reconsidered, and returns the same with the recommendation that said bills
25 do pass.

26 Also MR. PRESIDENT:

27 The Committee on Education respectfully reports that it has had under consideration
28 HB 1044 and returns the same with the recommendation that said bill do pass and be placed on
29 the consent calendar.

30 Respectfully submitted,
31 Alan Solano, Vice Chair

1 Also MR. PRESIDENT:

2 The Committee on Judiciary respectfully reports that it has had under consideration SB 192
3 and returns the same with the recommendation that said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on Judiciary respectfully reports that it has had under consideration
6 HB 1068 and returns the same with the recommendation that said bill do pass and be placed on
7 the consent calendar.

8 Also MR. PRESIDENT:

9 The Committee on Judiciary respectfully reports that it has had under consideration SB 95
10 and returns the same with the recommendation that said bill be amended as follows:

11 95ra

12 On page 1, line 5, of the printed bill, delete ". eighteen years of age or older.".

13 On page 1, line 13, delete "victim person" and insert "victim".

14 On page 2, line 1, delete "victim person" and insert "victim".

15 And that as so amended said bill do pass.

16 Also MR. PRESIDENT:

17 The Committee on Judiciary respectfully reports that it has had under consideration SB 162
18 which was deferred to the 41st Legislative Day.

19 Respectfully submitted,
20 Craig Tieszen, Chair

21 Also MR. PRESIDENT:

22 The Committee on Appropriations respectfully reports that it has had under consideration
23 SB 170, 173, 178, and 179 and returns the same with the recommendation that said bills do
24 pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration
3 SB 109 and returns the same with the recommendation that said bill be amended as follows:

4 109ga

5 On page 2, line 4, of the printed bill, delete "two hundred fifty" and insert "one dollar (\$1)".

6 On page 2, line 5, delete "thousand dollars (\$250,000)".

7 On page 2, line 7, delete "four thousand dollars (\$4,000)" and insert "one dollar (\$1)".

8 And that as so amended said bill do pass.

9 Also MR. PRESIDENT:

10 The Committee on Appropriations respectfully reports that it has had under consideration
11 SB 152 and returns the same with the recommendation that said bill be amended as follows:

12 152ga

13 On page 1, line 4, of the printed bill, delete "one million nine" and insert "one dollar (\$1)".

14 On page 1, line 5, delete "hundred thousand dollars (\$1,900,000)".

15 And that as so amended said bill do pass.

16 Also MR. PRESIDENT:

17 The Committee on Appropriations respectfully reports that it has had under consideration
18 SB 174 and returns the same with the recommendation that said bill be amended as follows:

19 174ga

20 On page 1, line 4, of the printed bill, delete "three million nine" and insert "one dollar
21 (\$1)".

22 On page 1, line 5, delete "hundred fifty thousand dollars (\$3,950,000)".

23 And that as so amended said bill do pass.

24 Respectfully submitted,
25 Deb Peters, Chair

1 Also MR. PRESIDENT:

2 The Committee on Commerce and Energy respectfully reports that it has had under
3 consideration HB 1037, 1038, 1052, 1084, 1088, 1111, and 1132 and returns the same with the
4 recommendation that said bills do pass and be placed on the consent calendar.

5 Also MR. PRESIDENT:

6 The Committee on Commerce and Energy respectfully reports that it has had under
7 consideration the nomination of Roger P. Novotny of Stanley County, Fort Pierre, South
8 Dakota, to the South Dakota Lottery Commission and returns the same with the
9 recommendation that the Senate advise and consent to the confirmation of said reappointment
10 and that said reappointment be placed on the consent calendar.

11 Respectfully submitted,
12 Brock Greenfield, Vice-Chair

13 Also MR. PRESIDENT:

14 The Committee on Agriculture and Natural Resources respectfully reports that it has had
15 under consideration SB 127 which was tabled.

16 Also MR. PRESIDENT:

17 The Committee on Agriculture and Natural Resources respectfully reports that it has had
18 under consideration HB 1095 which was deferred to the 41st Legislative Day.

19 Respectfully submitted,
20 Gary Cammack, Chair

21 **REPORT OF JOINT-SELECT COMMITTEE**

22 MR. PRESIDENT:

23 Your Joint-Select Committee appointed for the purpose of arranging for an informal Joint
24 Session of the Senate and the House of Representatives to receive the message of the Canadian
25 Consul General respectfully reports:

26 That the Senate and the House convene in an informal Joint Session in the Chamber of the
27 House of Representatives at 2:00 p.m., February 18, 2015.

1 That when the message of the Canadian Consul General has been received, the Joint
2 Session be dissolved.

3 Respectfully submitted,
4 Fred Romkema
5 Brian Gosch
6 Spencer Hawley
7 House Committee

Respectfully submitted,
Craig Tieszen
Tim Rave
Billie Sutton
Senate Committee

8 **MESSAGES FROM THE HOUSE**

9 MR. PRESIDENT:

10 I have the honor to transmit herewith HB 1072, 1090, 1148, 1173, and 1236 which have
11 passed the House and your favorable consideration is respectfully requested.

12 Also MR. PRESIDENT:

13 I have the honor to return herewith SB 22 which has passed the House without change.

14 Also MR. PRESIDENT:

15 I have the honor to inform your honorable body that the House has appointed
16 Reps. Romkema, Gosch, and Hawley as a committee of three on the part of the House to meet
17 with a committee of three on the part of the Senate for the purpose of arranging for a joint
18 session to hear the message of the Canadian Consul General.

19 Respectfully,
20 Arlene Kvislen, Chief Clerk

21 **MOTIONS AND RESOLUTIONS**

22 Sen. Tieszen moved that the Senate do concur in House amendments to SB 18.

23 The question being on Sen. Tieszen's motion that the Senate do concur in House
24 amendments to SB 18.

25 And the roll being called:

26 Yeas 31, Nays 0, Excused 4, Absent 0

1 Yeas:

2 Bradford; Brown; Buhl O'Donnell; Cammack; Ewing; Frerichs; Greenfield (Brock); Haggar
3 (Jenna); Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Lederman;
4 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
5 Rampelberg; Rave; Rusch; Solano; Sutton; Tidemann; Tieszen; Vehle; White

6 Excused:

7 Curd; Haverly; Soholt; Van Gerpen

8 So the motion having received an affirmative vote of a majority of the members-elect, the
9 President declared the motion carried and the amendments were concurred in.

10 Sen. Lederman moved that SCR 5 be placed on the calendar of Tuesday, February 17, the
11 22nd legislative day.

12 Which motion prevailed.

13 **FIRST READING OF CONCURRENT RESOLUTIONS**

14 SCR 6 Introduced by: Senators Soholt, Bradford, Brown, Buhl O'Donnell, Cammack,
15 Frerichs, Greenfield (Brock), Haverly, Heineman (Phyllis), Holien, Hunhoff (Bernie), Jensen
16 (Phil), Monroe, Olson, Otten (Ernie), Peters, Peterson (Jim), Rampelberg, Rusch, Sutton,
17 Tidemann, Tieszen, Vehle, and White and Representatives Sly, Bartling, Bolin, Bordeaux,
18 Brunner, Campbell, Conzet, Cronin, Deutsch, Dryden, Duvall, Feickert, Gibson, Gosch,
19 Greenfield (Lana), Haggar (Don), Harrison, Hawks, Hawley, Holmes, Hunhoff (Jean), Jensen
20 (Alex), Johns, Kaiser, Killer, Kirschman, Klumb, Langer, Marty, May, McCleerey, Mickelson,
21 Munsterman, Qualm, Rasmussen, Ring, Romkema, Schrempp, Soli, Solum, Stevens, Tulson,
22 Westra, Willadsen, and Zikmund

23 A CONCURRENT RESOLUTION, to direct the Department of Education to ensure South
24 Dakota students are well-versed in civics and government.

25 WHEREAS, the Joe Foss Institute has spearheaded the civics education initiative to promote
26 an appreciation for America's freedoms, public service, patriotism, and integrity; and

27 WHEREAS, the citizens of South Dakota have great respect for the principles upon which
28 the United States of America was founded; and

29 WHEREAS, the citizens of South Dakota take great pride in our American civics tradition,
30 how our government works, and who we are as a nation; and

31 WHEREAS, the citizens of South Dakota deeply appreciate what it means to be an active
32 and engaged citizen, including the associated responsibilities of citizenship; and

1 WHEREAS, the South Dakota civics and government content standards begin in
2 kindergarten and are taught through 12th grade; and

3 WHEREAS, the citizens of South Dakota wish to ensure this legacy for future generations:

4 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninetieth Legislature of the
5 State of South Dakota, the House of Representatives concurring therein, that the South Dakota
6 Legislature directs the South Dakota Department of Education to ensure that students are being
7 taught the content reflected in the U.S. Citizenship Civic's Test and demonstrate competency
8 by successful completion of the U.S. Government course required for graduation from high
9 school.

10 Was read the first time and referred to the Committee on Education.

11 Sen. Rave moved that SB 168 be placed to precede SB183 on today's calendar.

12 Which motion prevailed.

13 **CONSIDERATION OF REPORTS OF COMMITTEES**

14 Sen. Rave moved that the reports of the Standing Committees on

15 Health and Human Services on HB 1130 as found on page 366 of the Senate Journal; also

16 Transportation on SB 128 as found on page 365 of the Senate Journal; also

17 Taxation on SB 182 as found on page 365 of the Senate Journal be adopted.

18 Which motion prevailed.

19 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

20 The President declared that SB 158 was withdrawn at the request of the prime sponsor
21 pursuant to Joint Rule 6B-1.1.

22 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

23 HB 1072: FOR AN ACT ENTITLED, An Act to provide that certain information regarding
24 postsecondary technical institutes be given to parents and guardians of students in middle
25 schools and high schools.

1 Was read the first time and referred to the Committee on Education.

2 HB 1090: FOR AN ACT ENTITLED, An Act to prohibit a person from serving as a
3 member of a consumers power district board of directors in certain cases.

4 Was read the first time and referred to the Committee on Local Government.

5 HB 1148: FOR AN ACT ENTITLED, An Act to require that the annual report of a school
6 district contain certain information regarding school district fund balances.

7 Was read the first time and referred to the Committee on Education.

8 HB 1173: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
9 liability of parties involved in frivolous or malicious civil actions.

10 Was read the first time and referred to the Committee on Judiciary.

11 HB 1236: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
12 commissions received by insurance producers.

13 Was read the first time and referred to the Committee on Commerce and Energy.

14 **SECOND READING OF CONSENT CALENDAR BILLS AND RESOLUTIONS**

15 HB 1091: FOR AN ACT ENTITLED, An Act to require that the minutes of meetings of
16 any state board or commission include a record of how each individual member voted on certain
17 motions.

18 Was read the second time.

19 The question being "Shall HB 1091 pass?"

20 And the roll being called:

21 Yeas 31, Nays 0, Excused 4, Absent 0

22 Yeas:

23 Bradford; Brown; Buhl O'Donnell; Cammack; Ewing; Frerichs; Greenfield (Brock); Haggar
24 (Jenna); Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Lederman;
25 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
26 Rampelberg; Rave; Rusch; Solano; Sutton; Tidemann; Tieszen; Vehle; White

1 Excused:
2 Curd; Haverly; Soholt; Van Gerpen

3 So the bill having received an affirmative vote of a majority of the members-elect, the
4 President declared the bill passed and the title was agreed to.

5 HB 1098: FOR AN ACT ENTITLED, An Act to authorize extended terms of lease for
6 airport facilities.

7 Was read the second time.

8 The question being "Shall HB 1098 pass?"

9 And the roll being called:

10 Yeas 31, Nays 0, Excused 4, Absent 0

11 Yeas:
12 Bradford; Brown; Buhl O'Donnell; Cammack; Ewing; Frerichs; Greenfield (Brock); Haggard
13 (Jenna); Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Lederman;
14 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
15 Rampelberg; Rave; Rusch; Solano; Sutton; Tidemann; Tieszen; Vehle; White

16 Excused:
17 Curd; Haverly; Soholt; Van Gerpen

18 So the bill having received an affirmative vote of a majority of the members-elect, the
19 President declared the bill passed and the title was agreed to.

20 HB 1035: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
21 military specialty plates.

22 Was read the second time.

23 The question being "Shall HB 1035 pass?"

24 And the roll being called:

25 Yeas 31, Nays 0, Excused 4, Absent 0

26 Yeas:
27 Bradford; Brown; Buhl O'Donnell; Cammack; Ewing; Frerichs; Greenfield (Brock); Haggard
28 (Jenna); Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Lederman;
29 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
30 Rampelberg; Rave; Rusch; Solano; Sutton; Tidemann; Tieszen; Vehle; White

3 So the bill having received an affirmative vote of a majority of the members-elect, the
4 President declared the bill passed and the title was agreed to.

6 SB 168: FOR AN ACT ENTITLED, An Act to establish a legislative task force to study
7 elder abuse in South Dakota.

9 168rc

11 On page 1, line 8, of the Senate Retirement Laws Committee engrossed bill, delete "four"
12 and insert "three".

14 On page 1, line 11, delete "with" and insert "working with issues related to".

16 On page 2, line 3, delete "with" and insert "working with issues related to".

18 On page 2, line 9, delete everything after "shall" and insert "be staffed and funded by the
19 Unified Judicial System, not to exceed fifteen thousand dollars.".

21 Which motion prevailed.

23 And the roll being called:

24 Yeas 31, Nays 0, Excused 4, Absent 0

1 Yeas:

2 Bradford; Brown; Buhl O'Donnell; Cammack; Ewing; Frerichs; Greenfield (Brock); Haggar
3 (Jenna); Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Lederman;
4 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
5 Rampelberg; Rave; Rusch; Solano; Sutton; Tidemann; Tieszen; Vehle; White

6 Excused:

7 Curd; Haverly; Soholt; Van Gerpen

8 So the bill having received an affirmative vote of a majority of the members-elect, the
9 President declared the bill passed.

10 The question being on the title.

11 168rta

12 Sen. Novstrup (David) moved that the title to SB 168 be amended as follows:

13 On page 1, line 1, of the Senate Retirement Laws Committee engrossed bill, delete
14 "legislative".

15 Which motion prevailed and the title was so amended.

16 Sen. Rave moved that SB 183, 159, 91, 92, and 136 and HB 1085, 1069, 1055, 1058, 1059,
17 1063, 1043, 1057, 1051, and 1013 be placed on the calendar of Tuesday, February 17, the 22nd
18 legislative day.

19 Which motion prevailed

20 **SIGNING OF BILLS**

21 The President publicly read the title to

22 SB 22: FOR AN ACT ENTITLED, An Act to revise the penalty for altering a registration
23 device issued by a dealer.

24 HB 1001: FOR AN ACT ENTITLED, An Act to establish a wine direct shipment license
25 and wine carrier license to enable the direct shipments of certain wine in South Dakota.

26 HB 1004: FOR AN ACT ENTITLED, An Act to authorize the direct sale of distilled spirits
27 from artisan distillers to retailers and wholesalers.

28 And signed the same in the presence of the Senate.

COMMEMORATIONS

SC 16 Introduced by: Senators Peters, Buhl O'Donnell, Haverly, Heineman (Phyllis), Omdahl, Parsley, Tidemann, Van Gerpen, and White and Representatives Anderson, Bordeaux, Cronin, Dryden, Hunhoff (Jean), Jensen (Alex), Ring, and Romkema

A LEGISLATIVE COMMEMORATION, Commending the South Dakota Air National Guard's 114th Fighter Wing on being awarded the General Carl A. Spaatz Trophy.

WHEREAS, the South Dakota Air National Guard's 114th Fighter Wing was presented the Spaatz Trophy at the 2014 National Guard Association of the United States conference on August 25, 2014; and

WHEREAS, the Spaatz Trophy is presented to the most outstanding flying unit in the Air National Guard each year; and

WHEREAS, this is the fourth time the 114th Fighter Wing has won the prestigious award; and

WHEREAS, the selection is based on overall combat readiness and the unit's performance with respect to all other Air National Guard flying units with flying safety, aircraft operation readiness, weapons firing, unit alerts, unit manning, skill level qualifications, retention, drill attendance, operational readiness inspections, outstanding accomplishments, and special missions all being factors in the evaluation and selection; and

WHEREAS, the 114th Fighter Wing continues to demonstrate continued support to their community and the State of South Dakota:

NOW, THEREFORE, BE IT COMMEMORATED, by the Ninetieth Legislature of the State of South Dakota, that the South Dakota Legislature expresses its respect, commendation, and congratulations to the South Dakota Air National Guard 114th Fighter Wing for its selection as the winner of the Spaatz Trophy for training year 2013 and recognizes the 114th Fighter Wing for their outstanding service to the great State of South Dakota and the United States of America.

SC 17 Introduced by: Senators Heinert, Bradford, Buhl O'Donnell, Frerichs, Haverly, Hunhoff (Bernie), Olson, Parsley, Peterson (Jim), Rave, Rusch, Solano, Sutton, and Tieszen and Representatives Killer, Anderson, Bartling, Bolin, Bordeaux, Campbell, Feickert, Gibson, Hawks, Hawley, Kirschman, Marty, May, McCleerey, Ring, Schrempp, and Soli

A LEGISLATIVE COMMEMORATION, Recognizing the 136th anniversary of the Fort Robinson Outbreak and commending the Annual Fort Robinson Memorial Breakout Run.

1 WHEREAS, in 1877, the military relocated hundreds of Cheyenne to a southern reservation
2 in Oklahoma. In 1878, after becoming assailed by starvation and sickness, Chief Dull Knife and
3 his followers escaped north but eventually surrendered at Fort Robinson, Nebraska; and

4 WHEREAS, on the cold winter morning of January 9, 1879, after days of imprisonment
5 without food or water, Chief Dull Knife and over one hundred Cheyenne people fought their
6 way out of the barracks of Fort Robinson and began their long dangerous journey back to their
7 home in Montana. In the attempt to escape, many Cheyenne men, women, and children lost their
8 lives; and

9 WHEREAS, the Annual Fort Robinson Memorial Breakout Run, held on the anniversary
10 of the Fort Robinson Memorial Breakout, honors the sacrifice of the Cheyenne people, as
11 runners retrace the historic four hundred mile trek through Nebraska, South Dakota, Wyoming,
12 and Montana. The run gives young members of the Northern Cheyenne tribe a chance to
13 understand and honor the journey of their ancestors; and

14 WHEREAS, the 20th Annual Fort Robinson Memorial Run will begin on January 9, 2016,
15 and runners will pass through the Pine Ridge Reservation, Rapid City, and Belle Fourche; and

16 WHEREAS, the Cheyenne and Lakota tribes are longstanding friends and allies:

17 NOW, THEREFORE, BE IT COMMEMORATED, by the Ninetieth Legislature of the State
18 of South Dakota, that the South Dakota Legislature recognizes the historical significance of the
19 struggles that led to the Fort Robinson Outbreak and commends those who are organizing and
20 participating in the historic Annual Fort Robinson Memorial Breakout Run.

21 Sen. Cammack moved that the Senate do now adjourn, which motion prevailed and at
22 1:44 p.m. the Senate adjourned.

23 Kay Johnson, Secretary

